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SA(MD). No.75 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On: 16.04.2026

Delivered on : 05.06.2026

CORAM

THE HONOURABLE MR. JUSTICE P.B.BALAJI

**SA(MD). No.75 of 2026
and
CMP(MD)No.2758 of 2026**

Mahalakshmi (Died), ... 1st Respondent / Plaintiff

1. Maheswari

2. Jeyachitra,

3. Vaijeyanthimala,

4. Gayathri,

... Appellants / Respondents 3 to 6/
LRs of deceased Plaintiff

Vs.

1. Rajeswari,

... 1st Respondent / Appellant /

1st Defendant

2. The Sub Registrar

Sub Registrar Office,

Sattur Taluk,

Virudhunagar District.

... 2nd Respondent / 2nd Respondent/

2nd Defendant



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PRAYER :- Second Appeal filed under Section 100 of Civil Procedure Code to set aside the Judgment and Decree passed by the Subordinate Judge, Sattur dated 14.03.2025 made in A.S.No.21 of 2021, reversing the Judgment and Decree passed by the District Munsif cum Judicial Magistrate No.I, Sattur made in O.S.No.26 of 2017 dated 25.01.2021 and allow the Second Appeal.

For Appellants : Mr.N.Rahamadullah,

For Respondents : Mr.A.Kannan for R2

: Mr.M.Thirunavukkarasu for R1

JUDGMENT

The plaintiffs, in O.S.No.26 of 2017 on the file of the District Munsif cum judicial Magistrate No.I, Sattur, are the appellants herein, aggrieved by the dismissal of the suit by the trial Court as well as the first appellate Court.

2. The second appeal was admitted by me on 05.03.2026 on the following substantial questions of law:



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(i) Whether the Lower Appellate Court erred in law by reversing the well-reasoned judgment of the Trial court without properly appreciating the legal burden of proof upon the Defendant to disprove the Plaintiff's consistent and specific allegations of fraud and misrepresentation in the execution of the Settlement deed dated 16.07.2007?

(ii) Whether the Lower Appellate Court misapplied presumption under Section 123 of the Transfer of Property Act, 1882 and failed to consider that mere registration of a Settlement deed does not preclude a finding of fraud or misrepresentation, especially when the donative intent and voluntary execution are seriously disputed?

(iii) Whether the Appellate Court committed an error in law by ignoring documentary evidence such as patta, tax, and electricity receipts (Exs.A5 to A10) which are admissible under Section 35 of the Indian Evidence Act, 1872 and support the plaintiff's claim of continuous possession and enjoyment of the property?

3. I have heard Mr.N.Rahamadullah, learned counsel for the appellants and Mr.M.Thirunavukkarasu, learned counsel for the first respondent and Mr.A.Kannan, learned counsel for the second respondent.

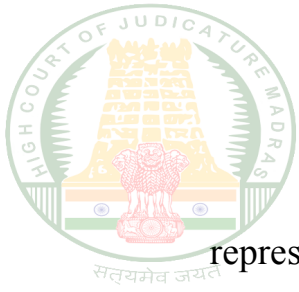


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4. Brief facts that are necessary for deciding the second appeal and also the substantial questions of law are as follows:

The plaintiff and the first defendant are sisters. The suit properties originally belonged to one Nagammal, who had got it from her mother Guruvammal by way of settlement in the year 1955 and Nagammal executed a settlement deed dated 14.07.1981 in favour of the plaintiff, in respect of first item and $\frac{1}{2}$ of the second item of the suit property. The sister of Nagammal executed a settlement deed on 20.02.1994 in favour of the plaintiff in respect of the remaining $\frac{1}{2}$ share of the second item of the suit property and thus, the plaintiff became the absolute owner of the suit items 1 as well as 2. Even according to the plaintiff, the suit items 3 to 6 are undivided properties, standing in the name of Nagammal and all legal heirs of Nagammal are entitled to a share. The plaintiff would contend that the second item is a house, which is in possession of the plaintiff and her family members. In respect of which, all taxes and charges had been paid by the plaintiff. The plaintiff alleges that taking advantage of her illiteracy and ill-health, the first defendant, her sister has fraudulently obtained a settlement deed on 16.07.2007, mis-

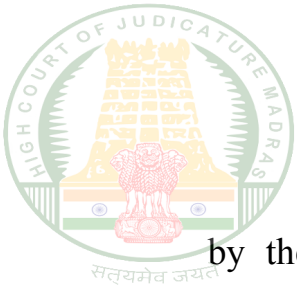


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representing to the plaintiff that she was signing for change of patta.

However, according to the plaintiff, when the plaintiff was renovating the suit second item house, it was objected, citing the settlement deed executed by the plaintiff and immediately the plaintiff had applied for certified copy of settlement deed and contending that the plaintiff has been in possession of the suit item Nos.1 and 2, the plaintiff sought for a relief of declaration to nullify the settlement deed dated 16.07.2007 and also seeking for mandatory injunction.

5. The suit was resisted by the first defendant contending that the plaintiff voluntarily executed the settlement deed in favour of the first defendant. The first defendant also denies the claim of the plaintiff that the plaintiff is enjoying the second item house and states that it is only the first defendant, who has been in enjoyment of the said house and not the plaintiff. The first defendant, however, admits that the suit 3 to 6 items are belonging to all legal heirs of deceased Nagammal, except insofar as a portion of item No.3, which was settled by Nagammal, on the first defendant vide settlement deed, dated 14.07.1981. According to the first defendant, the children of the plaintiff were all brought up only



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by the first defendant and without any inducement, voluntarily, the plaintiff executed the settlement deed, and the suit items are only in the possession of the first defendant.

6. The Sub Registrar, who was arrayed as the second defendant, filed a written statement stating that the plaintiff appeared in person and voluntarily executed the document and all registration formalities had been properly carried out. The second defendant also states that there is no cause of action for filing the suit against the second defendant, who is an unnecessary party.

7. Before the trial Court, the plaintiff examined two witnesses as P.W.1 and P.W.2 and 16 documents were marked as Ex.A1 to Ex.A16. On the side of the first defendant, two witnesses were examined as D.W. 1 and D.W.2 and 5 documents were marked as Ex.B1 to Ex.B5. The Advocate Commissioner's report and plan were marked as Ex.C1 and Ex.C2.



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8. The trial Court, considering the pleadings as well as the oral and documentary evidence brought on record by the parties, decreed the suit. Aggrieved by the said judgment and decree of the trial Court, the first defendant preferred A.S.No.21 of 2021. The first appellate Court on re-appreciation of the oral and documentary evidence, set aside the findings of the trial Court and dismissed the suit.

9. Aggrieved by the reversal findings of the first appellate Court, the present second appeal has been filed.

10. The learned counsel for the appellant would state that the plaintiff had specifically pleaded that she was an illiterate lady, illiteracy had been taken undue advantage of the first defendant, to bring about the settlement deed. He would further state that the plea of illiteracy is not even denied in the written statement and in such circumstances, the first defendant was clearly in a fiduciary relationship with the plaintiff and having taken advantage of the fact that the plaintiff did not know to read and write, the plaintiff's signature on the settlement deed had been



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obtained by fraud, and the plaintiff had signed the document only for the purpose of mutation of patta. It is therefore submit that it is a clear case of mis-representation and burden was on the first defendant to establish that there was nothing improper in execution of the settlement deed. The learned counsel would further state that the suit properties are still in the possession of the plaintiff and the settlement deed was never acted upon as well. In this regard, he would take me through the cross examination of D.W.1, where there is an admission of possession of the house being with the plaintiff. He would further state that the plaintiff has also explained the delay in approaching the Court, since the fraud committed by the first defendant came to light only when the plaintiff was renovating the house situate in the second item of the suit property and therefore when the plaintiff was kept in the dark about the execution of the settlement deed, the delay cannot be put against the plaintiff/appellant .

11. He would further state that the defendants had set up a case that the daughter of the plaintiff had eloped with a person with 15 sovereigns belonging to the first defendant and only in order to



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compensate the said jewelry, the plaintiff had executed the settlement deed, in favour of the first defendant. He would therefore state that when the defendants had taken a stand that the settlement deed was supported by consideration and failed to establish the same, at trial, it only probablised the case of the plaintiff that the settlement deed is not a genuine or valid document, binding on the plaintiff. The learned counsel for the appellant has also stated that even the said reason with regard to settlement deed was not even pleaded in the written statement and such theory was set up only during the course of trial of the suit. The learned counsel further argued that there is also no endorsement in the settlement deed that it was read over and explained to the plaintiff. In the circumstances, the contents of the document are not helpful to the plaintiff's claim, and the execution and registration thereof have not been proved as required under law

12. In support of his submissions, the learned counsel would rely upon the judgment in *Chidambaram Pillai v. Muthammal* reported in **1993-1-MLJ-535**.



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13. Per contra, Mr.M.Thirunavukkarasu, learned counsel for the first respondent, would firstly state that the plaintiff had only 1/8 share in item Nos.3 to 6 and owned item Nos.1 and 2 alone absolutely. He would further state that the plaintiff had categorically admitted the execution of the settlement deed. He would further state that the settlement deed had been acted upon and even the settlement deed mentioned the fact that the settlee was even put in possession. It is his further case that custody of the original documents were also given to the first defendant, who produced the same, which falsified the case projected by the plaintiff. He would also state that D.W.2 witness to the settlement deed has clearly spoken about the voluntarily execution of the settlement deed by the plaintiff and therefore, the plea of illiteracy and fiduciary relationship cannot be sustained. The learned counsel would state that the first appellate Court has rightly assessed the oral and documentary evidence and set aside the erroneous findings rendered by the trial Court. The learned counsel would therefore state that no interference is warranted in the present second appeal.

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14. I have carefully considered the submissions advanced by the learned counsel on either side.

15. The plaintiff is none else than the sister of the first defendant and it is not in dispute that the plaintiff became the absolute owner of the suit item Nos.1 and 2, besides also having 1/8 share in item Nos.3 to 6. It is the case of the plaintiff that she is an illiterate lady and taking advantage of the same, the first defendant had fraudulently brought about the settlement deed, taking the plaintiff to the Sub Registrar office under the pretext that the plaintiff had to sign for mutation of revenue records. Thus, it is an admitted fact that the plaintiff executed the settlement deed. Therefore, what remains to be considered is whether the settlement deed was executed voluntarily or whether it was vitiated by fraud and misrepresentation played upon the plaintiff.

16. As rightly contended by the learned counsel for the appellants, the plaintiff has specifically pleaded in the plaint that the plaintiff is an illiterate lady. In the written statement filed by the first defendant, the



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said averment of the plaintiff is not even specifically denied. In such circumstances, even assuming that the benefit of doubt can be given to the plaintiff and it can be held that the plaintiff was in fiduciary relationship with the first defendant and burden was upon the first defendant to prove the voluntarily execution of the settlement deed, D.W.2's evidence virtually demolishes the case of the plaintiff, D.W.2 has clearly spoken about the fact that the plaintiff appeared before the Sub Registrar and fully knowing the contents, the plaintiff signed the settlement deed. The Sub Registrar had also filed a written statement stating that the plaintiff appeared in person and all registration formalities were duly completed by her at the time of registration of the settlement deed. The settlement deed was executed on 16.07.2007. However, the same was not questioned until the filing of the suit. The plaintiff attempts to cover up the delay by contending that when the plaintiff renovating the house in the second item of the house, the defendants brought up the issue of the settlement deed and objected to the same and therefore, the plaintiff immediately rushed to Court for necessary and suitably relief to protect her right interest possession in the suit property.



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17. In the plaint, the plaintiff alleges that on 20.10.2016, when the plaintiff was carrying out repairs to the compound wall in the front portion and fixing a gate, the first defendant came and objected to the said activities being carried on and only then, the first defendant mentioned about the execution of the settlement deed, even on 16.07.2007 by the plaintiff herself. It is also stated in the plaint that immediately the plaintiff's husband applied for and obtained a certified copy of the settlement deed as early as 24.10.2016. Strangely, the suit came to be filed only in April 2017. If, as alleged, the plaintiff's valuable properties had been unlawfully taken away by the first defendant, it is highly improbable that the plaintiff, even assuming she is illiterate, would have remained silent for nearly six months before initiating legal proceedings.

18. Even otherwise, when the plaintiff admits the execution of the settlement deed, comes up with a case of mis-representation and fraud, the burden of proof is very heavily only on the plaintiff. As already



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discussed, even if a case of fiduciary relationship is assumed, still, by examining one of the attesting witnesses to the settlement deed as D.W.2, and in view of the statutory requirements having been complied with under the settlement deed, the plaintiff cannot derive any benefit therefrom. The first defendant has clearly established that the settlement deed was executed by the plaintiff voluntarily and without any coercion from any person whomsoever. On the side of the plaintiff, there is absolutely no evidence regarding the mis-representation alleged by her. In fact, there is no explanation as to how the title deed went into the possession of the first defendant. Mere fact that the first defendant had admitted that the plaintiff continues to be in possession may not be a ground in isolation to invalidate the settlement deed itself.

19. In this regard, the decision of this Court in ***Vasanthiri v. Govindan***, reported in ***2021-6-CTC-808***, has also been relied upon by the first appellate Court. This Court in the said decision, held that transfer in the case of immovable property only requires a registered instrument and the law does not make delivery of possession of immovable property an additional requirement for the gift deed to be



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valid. The first appellate Court also rightly found that the settlement deed Ex.B3 clearly established that the gift deed was acted upon immediately. In such view of the matter, I do not see any misapplication of the settled principles of law, warranting interference in exercise of jurisdiction under Section 100 of the Code of Civil Procedure.

20. Even with regard to the case set up by the defendants that the plaintiff's daughter eloped with 15 sovereigns belonging to the first defendant and that the settlement deed was executed only for compensating the said 15 sovereigns of gold, no doubt as rightly contended by the learned counsel for the appellant, there is no pleadings with regard to the said version projected by the first defendant in the witness box. It is a settled position of law that no amount of evidence can be looked into in the absence of pleadings. Even otherwise, at best, the version projected by the first defendant can only be viewed as a weakness in the defence set up by her and it does not absolve the plaintiff from establishing the allegation of fraud and mis-representation. As already held, not only has the plaintiff miserably failed to establish



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the plea of fraud and misrepresentation by the first defendant, but, the first defendant has also proved the fact that the settlement deed was in fact executed voluntarily by the plaintiff and knowing the contents of the same. The argument that the document does not state that the contents of the settlement deed were read over and explained to the plaintiff and therefore, the settlement deed is not a valid document can never be countenanced. It is a registered document executed before the competent Sub Registrar, who has also filed a written statement, stating that the plaintiff participated in the execution formalities and there was nothing illegal and improper in the said process.

21. In the light of the above, I do not see how the plaintiff is entitled to succeed in reversing the well considered findings by the first appellate Court in the second appeal.

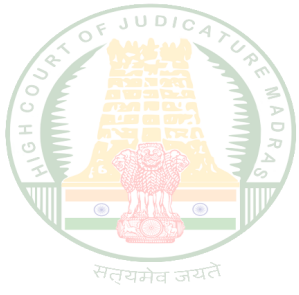
22. Coming to the decision on which relied on by the learned counsel for the appellants in **Chidambaram's** case, this Court held that when the plaintiff is an illiterate Woman and incapable of understanding, the burden is not discharged by mere proof of execution of the document,



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but the law requires clear proof of contents of the document executed by the illiterate person. There is no quarrel with regard to the said proposition laid down by this Court in the above case. However, it is noted that in the facts of those case, the executant only affixed left Thumb impression and had not even signed the document. However, in the present case, admittedly, the plaintiff signed the settlement deed and further her husband also being around and even obtained certified copy of the settlement deed, even according to the plaintiff. The plaintiff having executed documents, even assuming for change of patta, the plaintiff has not been able to explain as to how the original document of title was into the hands of the defendants. Therefore, the decision is not applicable to the facts of the present case.

23. For all the above reasons, I do not find any perversity in the findings of the first appellate Court, warranting interference in second appeal. The substantial questions of law are answered against the appellants.



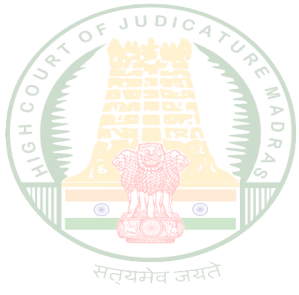
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24. In fine, the second appeal is dismissed and the judgment and decree of the first appellate Court in A.S.No.21 of 2017 is hereby confirmed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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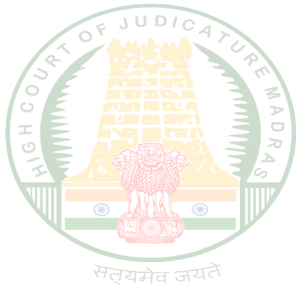
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1. The Subordinate Judge,
Sattur.
2. The District Munsif cum Judicial Magistrate No.I,
Sattur.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.
4. The Sub Registrar,
Sub Registrar Office,
Sattur Taluk,
Virudhunagar District.



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P.B.BALAJI,J.

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**Pre-delivery judgment made in
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